

## Department of Energy

## § 1045.15

### § 1045.12 Authorities.

(a) The Director of Classification may determine whether nuclear-related information is RD.

(b) Except as provided in paragraph (c) of this section, the Chief Health, Safety and Security Officer may declassify RD information.

(c) The Chief Health, Safety and Security Officer, jointly with the DoD, may determine which information in the RD category relating primarily to the military utilization of nuclear weapons may be declassified or placed into the FRD category.

(d) The Chief Health, Safety and Security Officer jointly with the DoD may declassify FRD information.

[62 FR 68509, Dec. 31, 1997, as amended at 71 FR 68737, Nov. 28, 2006]

### § 1045.13 Classification prohibitions.

In no case shall information be classified RD or FRD in order to:

(a) Conceal violations of law, inefficiency, or administrative error;

(b) Prevent embarrassment to a person, organization, or Agency;

(c) Restrain competition;

(d) Prevent or delay the release of information that does not require protection for national security or non-proliferation reasons;

(e) Unduly restrict dissemination by assigning an improper classification level; or

(f) Prevent or delay the release of information bearing solely on the physical environment or public or worker health and safety.

### § 1045.14 Process for classification and declassification of restricted data and formerly restricted data information.

(a) *Classification of Restricted Data—*

(1) *Submission of Potential RD for Evaluation.* Any authorized holder who believes he or she has information which may be RD shall submit it to an RD classifier for evaluation. The RD classifier shall follow the process described in this paragraph whenever he or she is unable to locate guidance in a classification guide that can be applied to the information. The RD classifier shall forward the information to the Director of Classification via their local classification or security office.

The Director of Classification shall determine whether the information is RD within 90 days of receipt by doing the following:

(i) Determine whether the information is already classified RD under current classification guidance; or

(ii) If it is not already classified, determine if the information concerns the design, manufacture, or utilization of nuclear weapons; the production of special nuclear material; or the use of special nuclear material in the production of energy; and

(A) Apply the criteria in §1045.16 and §1045.17 as the basis for determining the appropriate classification; and

(B) Provide notification of the decision by revising applicable classification guides, if appropriate.

(2) *Protection of Potential RD during Evaluation.* Pending a determination by the Director of Classification, potential RD submitted for evaluation by authorized holders shall be protected at a minimum as Confidential Restricted Data.

(b) *Declassification of Restricted Data.* The Chief Health, Safety and Security Officer shall apply the criteria in §1045.16 when determining whether RD may be declassified.

(c) *Classification of Formerly Restricted Data.* The Chief Health, Safety and Security Officer, jointly with the DoD, shall remove information which relates primarily to the military utilization of nuclear weapons from the RD classification category and classify it as FRD.

(d) *Declassification of Formerly Restricted Data.* The Chief Health, Safety and Security Officer, jointly with the DoD, shall apply the criteria in §1045.16 when determining whether FRD may be declassified.

[62 FR 68509, Dec. 31, 1997, as amended at 71 FR 68737, Nov. 28, 2006]

### § 1045.15 Classification and declassification presumptions.

(a) The Director of Classification and the Chief Health, Safety and Security Officer shall consider the presumptions listed in paragraphs (d) and (e) of this section before applying the criteria in §1045.16.